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Executive Committee

PREPARATION OF A SUCCESSOR AGREEMENT TO THE INTERNATIONAL COCOA AGREEMENT, 1986

Draft of articles 2, 7, and 19 as cleared
by the Legal Drafting Committee

CHAPTER II. DEFINITIONS

Article 2

Definitions

For the purposes of this Agreement:

1. Cocoa means cocoa beans and cocoa products;

2. Cocoa products means products made exclusively from cocoa beans, such as cocoa paste/liquor, cocoa butter, unsweetened cocoa powder, cocoa cake and cocoa nibs, as well as any other products containing cocoa as the Council may determine;

3. Cocoa year means the period of 12 months from 1 October to 30 September inclusive;

4. Contracting Party means a Government, or an intergovernmental organization as provided for in article [4], which has consented to be bound by this Agreement provisionally or definitively;

5. Council means the International Cocoa Council referred to in article [6];

6. Daily price is the representative indicator of the international price of cocoa used for the purposes of this Agreement and computed in accordance with the provisions of article [37];

7. Entry into force means, except when qualified, the date on which this Agreement first enters into force, whether provisionally or definitively;

8. Exporting country or exporting member means a country or a member respectively whose exports of cocoa, expressed in terms of beans exceed its imports. However, a country whose imports of cocoa expressed in terms of beans exceed its exports but whose production exceeds its imports may, if it so chooses, be an exporting member;

9. Export of cocoa means any cocoa which leaves the customs territory of any country, and import of cocoa means any cocoa which enters the customs territory of any country; provided that, for the purposes of these definitions, customs territory shall, in the case of a member which comprises more than one customs territory, be deemed to refer to the combined customs territories of that member;

10. Fine or flavour cocoa means cocoa produced in countries designated as fine or flavour cocoa producers to the extent specified by the Council, in accordance with the provisions of article [40];

11. Importing country or importing member means a country or a member respectively whose imports of cocoa expressed in terms of beans exceed its exports;

12. Member means a Contracting Party as defined above;

13. Organization means the International Cocoa Organization referred to in article [5];

14. Producing country means a country which grows cocoa in commercially significant quantities;

15. Production-management plan means the scheme provided for in article [28] as a means of keeping world production in balance with global consumption in the medium to long term;

16. Production-management programme means all measures and actions undertaken by an exporting member to achieve the objectives of the production-management plan as referred to in article [28].

17. Simple distributed majority vote means a majority of the votes cast by exporting members and a majority of the votes cast by importing members, counted separately;

18. Special Drawing Right (SDR) means the Special Drawing Right of the International Monetary Fund;

19. Special vote means two thirds of the votes cast by exporting members and two thirds of the votes cast by importing members, counted separately, on condition that at least five exporting members and a majority of importing members are present;

20. Tonne means a mass of 1,000 kilograms or 2,204.6 pounds, and pound means 453.597 grams.

Article 7

Powers and functions of the Council

1. The Council shall exercise all such powers and perform or arrange for the performance of all such functions as are necessary to carry out the express provisions of this Agreement.

2. The Council shall not have power, and shall not be taken to have been authorized by the members, to incur any obligation outside the scope of this Agreement; in particular it shall not have the capacity to borrow money. In exercising its capacity to contract, the Council shall incorporate in its contracts the terms of this provision and paragraph 4 of article [22] in such a way as to bring them to the notice of the other parties entering into contracts with the Council, but any failure to incorporate such terms shall not invalidate such a contract or render it ultra vires the Council.

3. The Council shall, by special vote, adopt such rules and regulations as are necessary to carry out the provisions of this Agreement and are consistent therewith, including its rules of procedure and those of its committees, and the financial and staff regulations of the Organization. The Council may, in its rules of procedure, provide for a procedure whereby it may, without meeting, decide specific questions.

4. The Council shall keep such records as are required for the performance of its functions under this Agreement, and such other records as it considers appropriate.

5. The Council may set up any working group(s) as appropriate to assist it in carrying out its task.

Article 19

Quorum for the Council and the Executive Committee

1. The quorum for the opening meeting of any session of the Council shall be constituted by the presence of at least five exporting members and a majority of importing members, provided that such members together hold in each category at least two thirds of the total votes of the members in that category.

2. If there is no quorum in accordance with paragraph 1 of this article on the day appointed for the opening meeting of any session, on the second day, and throughout the remainder of the session, the quorum for the opening session shall be constituted by the presence of exporting members holding a simple majority of the votes in each category.

3. The quorum for meetings subsequent to the opening meeting of any session pursuant to paragraph 1 of this article shall be that prescribed in paragraph 2 of this article.

4. Representation in accordance with paragraph 2 of article [11] shall be considered as presence.

5. The quorum for any meeting of the Executive Committee shall be prescribed by the Council in the rules of procedure of the Executive Committee.